IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11473 of 2007(N)

OS.54/2007 of M.C., PARAPPANANGADI

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PETITIONER:

DEVADAS, AGED 40 YEARS, S/O KUNHIKANNA,
ARINGATTIL HOUSE, P.O.VALLIKUNNU,
VALLIKUNNU AMSOM DESOM, TIRURANGADI
TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENT:

VELAYUDHAN, AGED 60 YEARS,
S/O CHERIYAKKAN, KONNAMKUZHY HOUSE,
P.O. VALLIKUNNU, ALLIKUNNU AMSOM DESOM,
TIRURANGADI TALUK, MALAPPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11473 of 2007 N

JUDGMENT

The petitioner is the plaintiff in O.S.No.54/07 on the file of the Munsiff's Court, Parappanangadi. The suit is one for recovery of an amount of Rupees eighty thousand with interest, costs, etc. due from the respondent/defendant. In the said suit, filed on 13.3.2007, he filed I.A.No.509/07 under Order XXXVIII Rule 5 of the CPC for an order of conditional attachment, before judgment, of the property scheduled therein for the reason that the respondent/defendant is attempting to dispose of the said property with a view to defeat him.

2. The grievance of the petitioner is that in the said petition, though notice was ordered and posted to 20.3.2007, the respondent did not appear, but, the court below has not passed any order of conditional attachment and even though I.A.No. 620/07 was filed by him for advancing the hearing

on attachment petition, it was not heard and that those matters are now posted to 4.4.2007. Counsel for the petitioner submits that a direction be given to the court below to pass appropriate orders on I.A.No.509/07 positively on 4.4.2007.

3. In the result, I direct the Munsiff, Parappanangadi to pass appropriate orders on I.A. No.509/07 positively on 4.4.2007, provided the petitioner, by a sworn affidavit, brings this direction to his notice positively in the morning on 4.4.2007, when the case is called. Affidavit shall, invariably, be filed on 3.4.2007, so as to be put up with the suit on 4.4.2007.

This writ petition is disposed of with the above directions.

2nd April, 2007 (K.P.Balachandran, Judge)

tkv